

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

MICHAEL PAYNE,

Plaintiff,

v.

Case No. 2:05-cv-245  
HON. ROBERT HOLMES BELL

GERALD HOFBAUER, et al.,

Defendants.

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**ORDER AND JUDGMENT**  
**APPROVING REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties, and no objection has been made thereto within the time required by law.

THEREFORE, IT IS ORDERED that:

1. The Report and Recommendation of the Magistrate Judge (Docket #21) is approved and adopted as the opinion of the Court.
2. Plaintiff's complaint is DISMISSED for failure to prosecute
3. The Court can discern no good-faith basis for an appeal. Accordingly, an appeal of this action would not be taken in good faith.

Date: November 9, 2006

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
CHIEF UNITED STATES DISTRICT JUDGE